



FREDERICK COUNTY PLANNING COMMISSION

January 11, 2017

TITLE: **Fast Food Restaurant-Lot 2DB**

FILE NUMBER: **SP 97-01, AP #16789, APFO#16790, FRO #16791**

REQUEST: **Site Plan Approval**

The Applicant is requesting site plan approval for a 1,850 square foot fast food restaurant with associated parking, on a .584-acre site.

PROJECT INFORMATION:

ADDRESS/LOCATION: 5617 Spectrum Drive, located along Spectrum Drive, south of Lowe's Lane

TAX MAP/PARCEL: Tax Map 77, Parcel 187, Lot 2D

COMP. PLAN: Mixed Use Development

ZONING: General Commercial (GC)

PLANNING REGION: Frederick

WATER/SEWER: W-1/S-1

APPLICANT/REPRESENTATIVES:

APPLICANT: Visconsi Companies

OWNER: Frederick Realty, LLC

ENGINEER: Harris, Smariga & Associates, Inc.

ARCHITECT: N/A

ATTORNEY: N/A

STAFF: Tolson DeSa, Principal Planner II

RECOMMENDATION: Conditional Approval

ATTACHMENTS:

Exhibit 1-Fast Food Restaurant Site Plan Rendering

Exhibit 2- Fast Food Restaurant Site Plan Modifications

STAFF REPORT

ISSUE

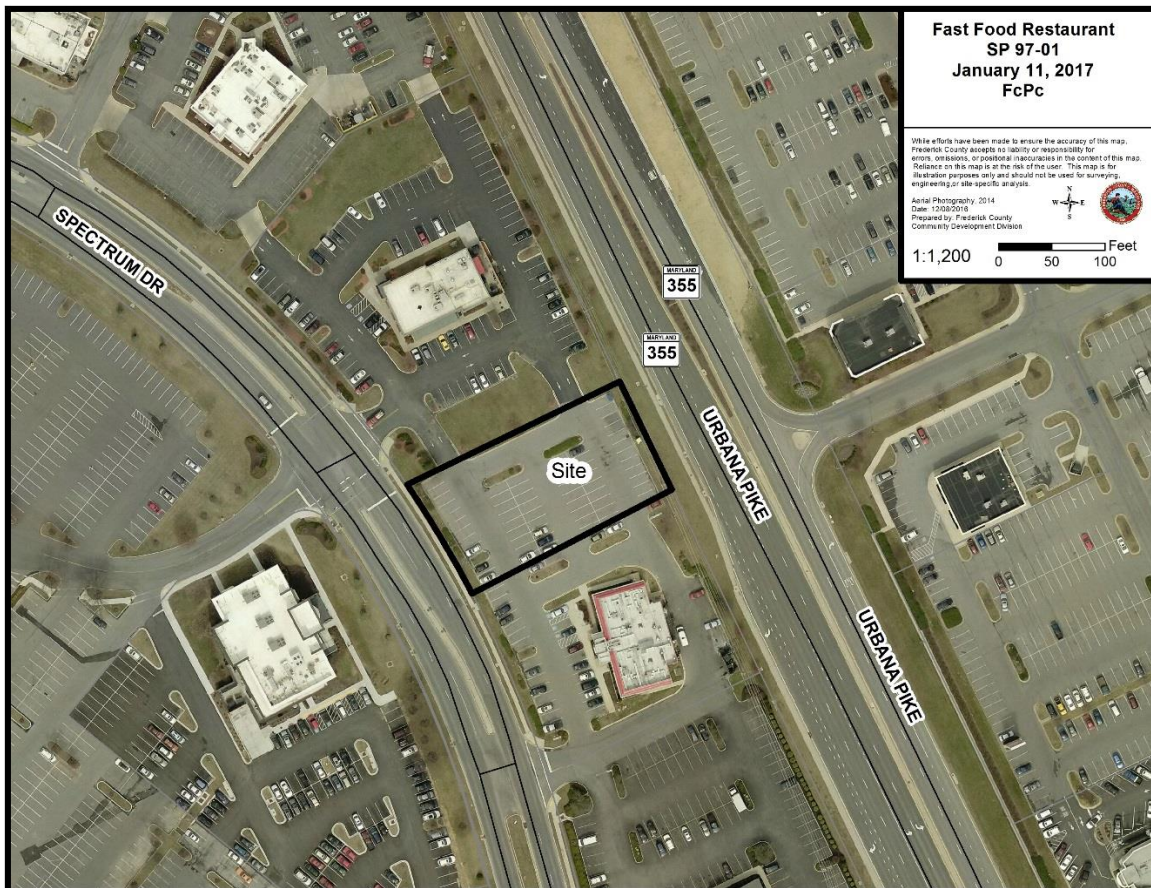
Development Request

The Applicant is requesting approval for a 1,850 square foot restaurant with associated parking, on a .584-acre site. The Applicant is proposing 24 parking spaces, including 2 handicapped accessible spaces (See Graphic #1). The proposed use is being reviewed as a “*Restaurant*” land use under the heading of *Commercial Business and Personal Services* per §1-19-5.310 Use Table in the Zoning Ordinance and is a principal permitted use in the General Commercial Zoning District subject to site development plan approval.

Modification Requests:

1. §1-19-6.200.B: The Applicant is requesting a parking setback modification to permit parking spaces to be located approximately 1 foot into the 12.5’ minimum setback for parking spaces along Spectrum Drive.
2. §1-19-6.220.A.1: The Applicant is seeking a parking space count modification to provide 24 parking spaces, which is a 7 space increase over the required 17.
3. §1-19-6.210.D: The Applicant is seeking a loading space modification to permit one small 9’x20’ loading space in lieu of one large 12’x50’ loading space.
4. §1-19-6.400.I: The Applicant is requesting a landscape plan modification to eliminate the street tree requirement for the Spectrum Drive frontage.
5. §1-19-6.500.G: The Applicant is seeking a lighting plan modification to permit light spillage across the property lines with the proposed Lot 2DA to the south, MD 355, Spectrum Drive and Lot 2C to the north.

Graphic #1: Fast Food Restaurant Site Aerial

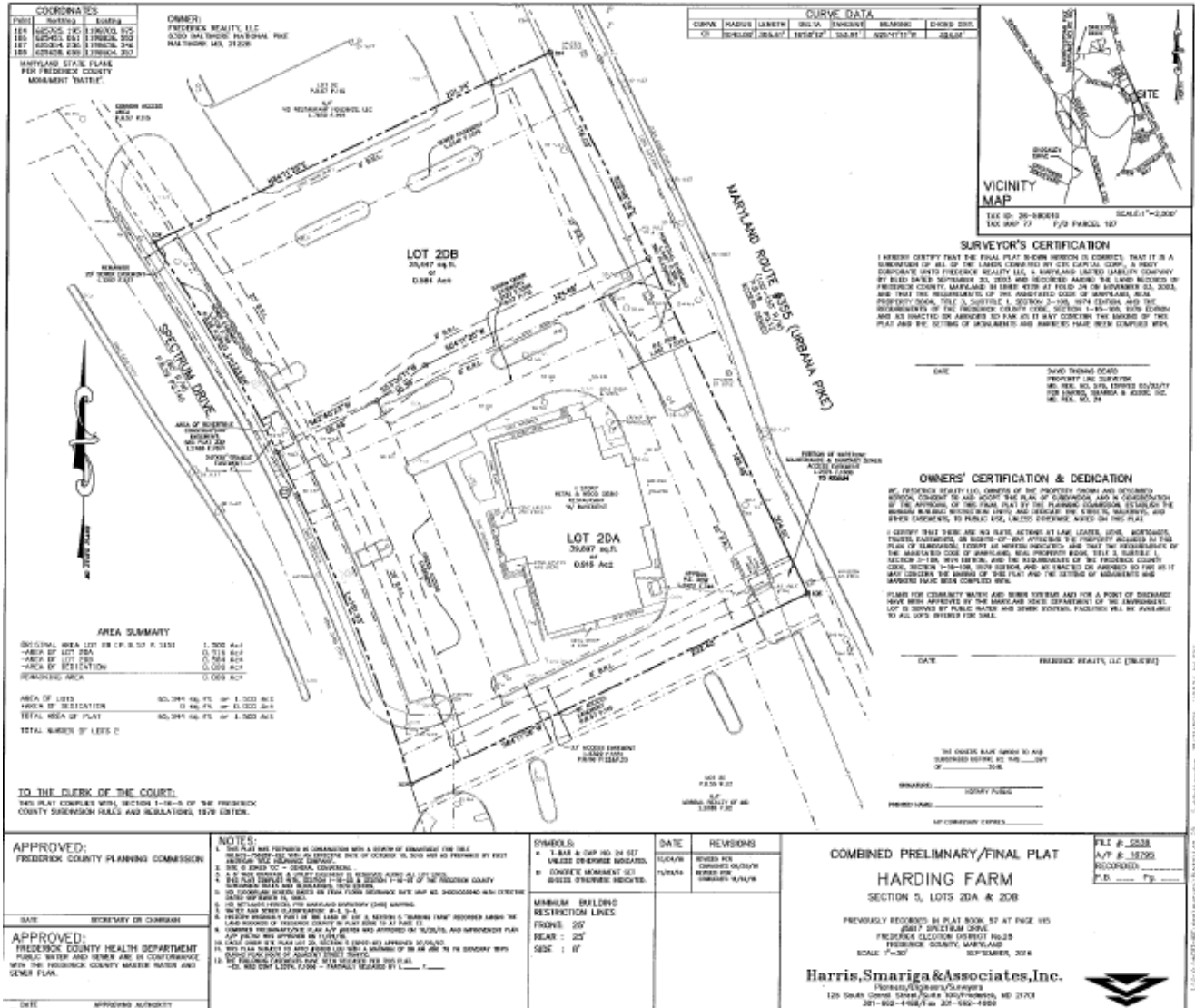


BACKGROUND

Development History

The FSK Mall was constructed in 1974; the portion of the site where the proposed jewelry store will be located was undeveloped until 1998, when the Double T Diner was constructed. The proposed jewelry store will be located on the lot that is the subject of a Combined Preliminary/Final Plat (AP #16795) to create a .916 acre Lot 2DA, Section 5 of Harding Farm from the 1.50-acre Lot 2D (See Graphic #2), the remaining .584-acre portion will be known as Lot 2DB and will be developed with a 1,850 square foot restaurant. The Applicant has submitted a Combined Preliminary/Final Plat (AP #16795) for concurrent review by the Frederick County Planning Commission (FCPC) at the January 11, 2017; this lot has yet to be recorded.

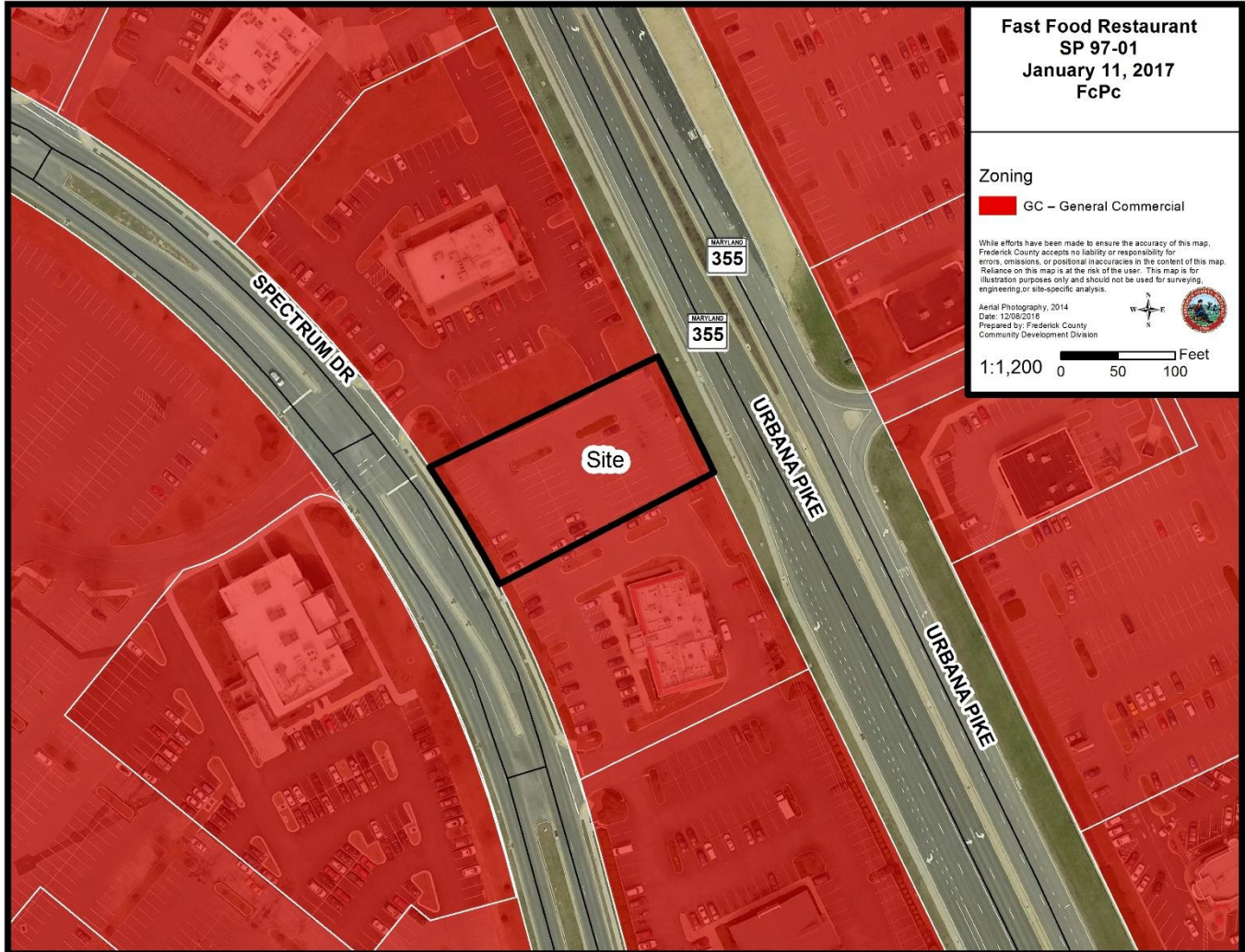
Graphic #2: Harding Farm: Lot 2D Combined Preliminary/Final Plat



Existing Site Characteristics

The site is currently zoned General Commercial (GC), and is developed with the Double T Diner restaurant and associated parking (See Graphic #3). The properties to the north and south are developed with an existing restaurants. The property to the west of the site is developed with the FSK Mall, and 3,600 parking spaces. MD 355 is located along the eastern property boundary.

Graphic #3: Fast Food Restaurant Site Zoning



ANALYSIS

Summary of Development Standards Findings and Conclusions

Staff and representatives from the State Highway Administration (SHA) along with the Applicant have been working together in order to introduce more landscaping and increased pedestrian connectivity within the MD 355 right-of-way along the Jared's and the adjacent 1,850 sq ft Fast Food frontages. Due to permitting and review complexities associated with improvements within the SHA right-of-way, the Applicant has provided an alternative landscape plan that shows the landscaping located outside of the SHA right-of-way in the event that the MD 355 landscaping proves to be problematic to review, permit, and implement within the time allotted for the Jared's Jewelry Store construction schedule.

Detailed Analysis of Findings and Conclusions

Site Development Plan Approval shall be granted based upon the criteria found in §1-19-3.300.4 Site Plan Review Approval Criteria of the Frederick County zoning ordinance.

Site Development §1-19-3.300.4 (A): Existing and anticipated surrounding land uses have been adequately considered in the design of the development *and negative impacts have been minimized through such means as building placement or scale, landscaping, or screening, and an evaluation of lighting. Anticipated surrounding uses shall be determined based upon existing zoning and land use designations.*

Findings/Conclusions

1. **Dimensional Requirements/Bulk Standards §1-19-6.100:** The proposed Site Development Plan adheres to the lot dimensions required for a 'commercial use', in the General Commercial (GC) Zoning District.

The proposed setbacks for the facility are the following:

	<u>Required</u>	<u>Proposed</u>
Minimum Lot Area	12,000 sqft	.916 acres
Minimum Lot Width	100'	182'
Front Yard-MD 355	25'	70.4'
Front Yard-Spectrum Drive	25'	72.6'
Side Yard-north	8'	30'
Side Yard-south	8'	55'
Rear Yard	25'	N/A
Max Building Height	60'	25'

The proposed plan meets the required Bulk/Dimensional requirements.

2. **Signage §1-19-6.300:** Signage will comply with Zoning Ordinance Sections 1-19-6.300 through 1-19-6.320. Within the GC zoning district the maximum signage is calculated at $10 \sqrt{F}$, where F is the length of the side of the building facing a public street (measured in lineal feet). Per zoning ordinance section 1-19-6.320, where the building faces multiple public streets, the Applicant may add the length of both facades facing the public streets to calculate signage. The site contains two facades facing public streets (Spectrum Drive as well as MD 355). Therefore, the maximum signage allowed for the site is $10 \sqrt{(29 + 70)} = 99$ sq ft. Prior to final signature approval of the Fast Food site plan, the Applicant shall update note 13 to reflect the correct maximum amount of signage. The final design and approval of the proposed sign will be provided with the sign permit.
3. **Landscaping §1-19-6.400:** The Applicant has submitted a landscape plan, see sheet 2 of 5. In conjunction with the ongoing redevelopment of properties along the MD 355 corridor, Staff has been continually working towards increasing the landscaping and streetscape aesthetic. To that end, Staff and representatives from the State Highway Administration (SHA) along with the Applicant have been working together in order to introduce more landscaping and increased pedestrian connectivity within the MD 355 right-of-way along the site of the Fast Food Restaurant and the adjacent 4,245 sq ft jewelry store site. Staff met with SHA on site and discussed the issues of additional landscaping and a sidewalk connection from the site to the existing sidewalk along MD 355. The Applicant worked with Staff to incorporate those site plan elements within the plan package.

Due to permitting and review complexities associated with improvements within the SHA right-of-way, the Applicant has provided an alternative landscape plan that shows the landscaping located outside of the SHA right-of-way in the event that the MD 355 landscaping proves to be problematic to review, permit and implement within the time allotted for the Fast Food Restaurant construction

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schedule. The alternative landscape plan is shown on Sheet 2 and addresses the street tree requirement for the MD 355 frontage, as well as incorporating additional shrubs and evergreen screening trees into the site.

The Applicant is required to provide 20% canopy cover over the parking area; the Applicant has proposed 26.5% canopy coverage over the parking area. The Applicant is required to provide 7 street trees, and has proposed 3 trees along MD 355. Due to sewer easements running along the Spectrum Drive frontage the Applicant is not permitted to add street trees within the easement area. Therefore the Applicant is seeking a modification to the street tree requirement for the Spectrum Drive frontage, see Exhibit #2.

4. **Screening §1-19-6.400:** In accordance with Z.O. §1-19-6.400.B.3, *buffering and screening for all other land uses shall be determined by the Planning Commission*. The adjacent parcels are zoned and developed with General Commercial (GC) zoning districts and uses. The site is extremely constrained with various utility easements. A sanitary sewer easement runs along the entire Spectrum Drive frontage, a waterline/drainage and utility easement runs along the entire northern property boundary, which make it extremely difficult to incorporate site screening. The Applicant has added additional building façade landscaping and has incorporated additional shrubs within the parking lot islands surrounding the proposed structure and along MD 355.
5. **Lighting §1-19-6.500:** The Applicant has proposed a lighting plan, which is shown on Sheet 4 of the plan package. The Applicant is proposing 5-18' foot tall light poles. The proposed lighting is fully shielded and cast down. The maximum lighting height for commercial users is 18'. There is ambient light trespass that occurs on all four property boundaries along this commercial corridor. The northern boundary with Appleby's has three areas of spillage that correspond with the three light poles on the north side of the site, these areas are along the interparcel connections to the north, as well as within the existing landscaped island to the north. The spillage to the east is minimal and will dissipate further below acceptable levels towards MD 355. There is light spillage along Spectrum Drive, although this spillage provides additional lighting onto the existing sidewalk along Spectrum. The southern property line between Lot 2DA and 2DB contains the most spillage however this light plan was designed to provide light to both users, therefore reducing the amount of poles needed for the two sites. Therefore, in accordance with §1-19-6.500.G, the Applicant is seeking a lighting plan modification to permit light spillage across the property lines with the proposed Lot 2DA to the south, MD 355, Spectrum Drive and Lot 2C to the north. Staff has no objection to granting the requested light spillage modification along areas of common access points, pedestrian travel ways, or between the joint users of Lots 2DA and 2DB.

Modifications:

1. §1-19-6.400.I: The Applicant is requesting a landscape plan modification to eliminate the street tree requirement for the Spectrum Drive frontage.
2. §1-19-6.500.G: The Applicant is seeking a lighting plan modification to permit light spillage across the property lines with the proposed Lot 2C to the north, MD 355, Spectrum Drive and Lot 2DA to the south.

Transportation and Parking §1-19-3.300.4 (B): *The transportation system and parking areas are adequate to serve the proposed use in addition to existing uses by providing safe and efficient circulation, and design consideration that maximizes connections with surrounding land uses and accommodates public transit facilities. Evaluation factors include: on-street parking impacts, off-street parking and loading design, access location and design, vehicular, bicycle, and pedestrian circulation and safety, and existing or planned transit facilities.*

Findings/Conclusions

1. **Access/Circulation:** The Applicant proposes to use the existing shared access points with Golden Corral and Appleby's located off of Spectrum Drive. The Applicant is not proposing any alteration to the existing access points. The existing western cross access connection with Lot 2DA to the south will remain in order to provide increased circulation between the two lots as well as provide an additional access point onto Spectrum Drive.
2. **Connectivity §1-19-6.220 (F):** The Applicant will utilize the existing cross access connection with Lot 2DB as well as Lot 2C to the north. All of the commercial lots in this strip have interconnected parcels, which provides access from Holiday Drive to Lowes Lane without using Spectrum Drive.
3. **Public Transit:** This site is well served by County TransIT: the Route-20 Francis Scott Key Mall Connector and Route 10 Mall to Mall Connector. Both bus routes drop off and pick up at the FSK Mall and Spectrum Drive, which is a short walk to and from the proposed restaurant. Staff has worked with TransIT in order to provide for an additional bus shelter to be located along the frontage of the adjacent parcel to the north in order to provide more comprehensive service throughout this area.
4. **Vehicle Parking and Loading §1-19-6.200-through 1-19-6.220:** The proposed parking calculations are based on the category of 'Restaurant', required parking for the category of 'Restaurant' store' is calculated 1 for each 75 square feet of floor area excluding preparation and/or storage areas. Therefore, based on 1,295 square feet of the overall 1,850 square foot restaurant, will require 17 parking spaces. The Applicant is required to provide 17 parking spaces and the Applicant has proposed 24 parking spaces, including two (2) ADA accessible spaces. In accordance with §1-19-6.220.A.1: The Applicant is seeking a parking space count modification to provide 24 parking spaces, which is a 7 space increase over the required 17, see Exhibit #2. Staff has no objection to granting approval of this parking space count modification.

The Applicant proposes to utilize the existing curb line and parking space setback along the Spectrum Drive frontage. In accordance with §1-19-6.200.B: The Applicant is requesting a parking setback modification to permit parking spaces to be located approximately 1 foot into the 12.5' minimum setback for parking spaces along Spectrum Drive. Staff has no objection to granting approval of this parking space setback modification.

5. **Loading §1-19-6.210.B:** For commercial uses over 5,000 square feet, the Zoning Ordinance requires 1 large + 1 additional large loading space for each additional 10,000 sq. ft. of total building net floor area or part thereof over 5,000 sq. ft. Proposed building square footage totals 1,850 square feet.

Therefore, this Site requires 1 large 12'x50' loading space; the Applicant has provided 1 small 9'x20' loading space. In accordance with §1-19-6.210.B.1, the Applicant is seeking a loading space modification to permit one small 9'x20' loading space in lieu of the large 12'x50' loading spaces, see exhibit #2. Staff has no objection to granting this modification request.

6. **Bicycle Parking §1-19-6.220 (H):** The Zoning Ordinance requires 1 bicycle rack for each 20 auto parking spaces for commercial uses. Therefore, the Applicant is required to provide 1 bicycle rack. The Applicant is proposing 2 racks which complies with the code requirement.
7. **Pedestrian Circulation and Safety §1-19-6.220 (G):** The Applicant has proposed sidewalks along the southern side of the proposed structure in order to provide safe and efficient pedestrian access into the restaurant from the adjacent parking areas. The Applicant will also install a sidewalk and

crosswalks from the west side of the building to the east side of the building across the parking lot, terminating at the existing sidewalk which will connect to the existing sidewalk along MD 355. Sidewalks exist along the Spectrum Drive frontage of the site.

Modifications:

1. §1-19-6.200.B: The Applicant is requesting a parking setback modification to permit parking spaces to be located approximately 1 foot into the 12.5' minimum setback for parking spaces along Spectrum Drive.
2. §1-19-6.220.A.1: The Applicant is seeking a parking space count modification to provide 24 parking spaces, which is a 7 space increase over the required 17.
3. §1-19-6.210.D: The Applicant is seeking a loading space modification to permit one small 9'x20' loading space in lieu of one large 12'x50' loading space.

Public Utilities §1-19-3.300.4 (C): Where the proposed development will be served by publicly owned community water and sewer, the facilities shall be adequate to serve the proposed development. Where proposed development will be served by facilities other than publicly owned community water and sewer, the facilities shall meet the requirements of and receive approval from the Maryland Department of the Environment/the Frederick County Health Department.

Findings/Conclusions

1. **Public Water and Sewer:** The site is to be served by public water and sewer and is classified W-1, S-1. The entire site is in pressure Zone #1 with water coming from New Design WTP and Sewer flowing into the Ballenger McKinney WWTP. While the public sewer and water facilities are currently adequate to serve the Project, the Applicant acknowledges that capacity is not guaranteed until purchased.

Natural features §1-19-3.300.4 (D): Natural features of the site have been evaluated and to the greatest extent practical maintained in a natural state and incorporated into the design of the development. Evaluation factors include topography, vegetation, sensitive resources, and natural hazards.

Findings/Conclusions

1. **Topography:** Lot 2D is flat and includes an existing restaurant/parking lot; the proposed plan will not significantly alter the existing topography on site other than what is to be expected during construction.
2. **Vegetation:** Lot 2D is flat and includes an existing restaurant/parking lot with no vegetation besides the on-site landscaping for the existing with Double T Diner.
3. **Sensitive Resources:** Based on available mapping, no wetlands or FEMA floodplain are located on the site.
4. **Natural Hazards:** There are no natural hazards located on the site.

Common Areas §1-19-3.300.4 (E): If the plan of development includes common areas and/or facilities, the Planning Commission as a condition of approval may review the ownership, use, and maintenance of such lands or property to ensure the preservation of such areas, property, and facilities for their intended purposes.

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Findings/Conclusions

1. **Proposed Common Area:** There are no common areas proposed as part of this development proposal.

Other Applicable Regulations

Moderately Priced Dwelling Units – Chapter 1-6A: The proposed use is non-residential; therefore, MPDUs are not required.

Stormwater Management – Chapter 1-15.2: Storm water management (SWM) shall be in accordance with the redevelopment section of the 2007 Maryland Storm water Design Manual, including all revisions and all supplements. A SWM concept plan (AP #16927) was approved for this project on November 15, 2016. A SWM development plan will be submitted and approved, prior to final site plan approval. A final SWM plan will be provided with the Improvement Plans.

Subdivision Regulations – Chapter 1-16: A Combined Preliminary/Final plat to subdivide Lot 2D into Lot 2DA and Lot 2DB (AP # 16795) has been submitted and is under review. The liber and folio of the recorded plat will be listed within Site Plan Note #1, once the addition plat is recorded.

APFO – Chapter 1-20:

1. **Schools.** Schools are not impacted because the proposed development is a non-residential use.
2. **Water/Sewer.** Water and Sewer APFO was processed in conjunction with the Combined Preliminary/Final Subdivision Plat for Lot 2D, Section 5 Harding Farm (AP# 16795).
3. **Roads.** Roads APFO was processed in conjunction with the Combined Preliminary/Final Subdivision Plat for Lot 2D, Section 5 Harding Farm (AP# 16795).

Forest Resource – Chapter 1-21: The Applicant has submitted a Combined Preliminary/Final Forest Conservation Plan, which has been approved by Staff. The site contain no forest or specimen trees but does generate an afforestation requirement of 0.23 acres. This mitigation requirement will be met by paying fee-in-lieu. Based on the current fee-in-lieu rate the payment owed is \$4,308.08. Payment is based on the fee-in-lieu rate in place at the time payment is made. The FRO mitigation must be provided prior to applying for grading permits, building permits, or lot recordation, whichever is applied for first.

Historic Preservation – Chapter 1-23: There are no historic structures located on this site.

Summary of Agency Comments

Other Agency or Ordinance Requirements	Comment
Development Review Engineering (DRE):	Conditional Approval
Development Review Planning:	Hold: Address all agency comments as the plan proceeds through to completion.
State Highway Administration (SHA):	N/A
Div. of Utilities and Solid Waste Mngt. (DUSWM):	Conditional Approval
Health Dept.	Approved
Office of Life Safety	Approved
DPDR Traffic Engineering	Approved
Historic Preservation	N/A

RECOMMENDATION

Staff has no objection to conditional approval of the site plan for a 1,850 square foot fast food restaurant with associated parking, on a .584-acre site. If the Planning Commission conditionally approves the site plan, the site plan is valid for a period of three (3) years from the date of Planning Commission approval, or until January 11, 2020.

Based upon the findings and conclusions as presented in the staff report, the application meets or will meet all applicable zoning, APFO, and FRO requirements once the following conditions are met:

1. Address all agency comments as the plan proceeds through to completion.
2. A SWM development plan shall be submitted and approved, prior to final site plan approval.
3. Record the subdivision plat for Lot 2DA & 2DB, Section 5 Harding Farm Final Plat and list proper Liber and Folio on the Fast Food Restaurant Site Plan.
4. The cross access easement between Lot 2DA and 2DB shall be recorded and the Liber and Folio listed within Site Plan Note #17.
5. The Applicant shall continue to work with DPP Staff and SHA to pursue the proposed landscaping and pedestrian improvements along the MD 355.
6. Modify APFO note #2 to state: "This site is subject to AFPO #16808 LOU. The site is allowed a maximum of 84 AM and 60 PM driveway trips during the peak hour of adjacent street traffic."
7. Prior to final signature approval of the Fast Food site development plan, the Applicant shall update note 13 to reflect 99 square feet of total maximum signage allowed for the site.
8. Prior to final signature approval of the Fast Food site development plan the Applicant shall update note 18 to include the following: Lighting shall be designed and installed to be fully shielded. Lighting shall be directed downward to prevent glare and light trespass onto adjacent properties, roadways, and the nighttime sky. Pole and building mounted lighting shall not exceed a maximum height of 18'.

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9. Complete the requirements of the Harding Farm Section 5, Lots 2DA and 2DB LOU.
10. Planning Commission approval of the parking setback modification to permit parking spaces to be located approximately 1 foot into the 12.5' minimum setback for parking spaces along Spectrum Drive.
11. Planning Commission approval of the parking space count modification to provide 24 parking spaces, which is a 7 space increase over the required 17.
12. Planning Commission approval of the loading space modification to permit one small 9'x20' loading space in lieu of one large 12'x50' loading space.
13. Planning Commission approval of the landscape plan modification to eliminate the street tree requirement for the Spectrum Drive frontage.
14. Planning Commission approval of the lighting plan modification to permit light spillage across the property lines with the proposed Lot 2C to the north, MD 355, Spectrum Drive and Lot 2DA to the south.

PLANNING COMMISSION ACTION **MOTION TO APPROVE**

I move that the Planning Commission **APPROVE** site plan SP 97-01, AP 16792 **with conditions and modifications** as listed in the staff report for the proposed for a 1,850 square foot fast food restaurant with associated parking, on a .584-acre site, based on the findings and conclusions of the staff report and the testimony, exhibits, and documentary evidence produced at the public meeting.

[illegible]



Revised November 28, 2016
October 6, 2016

Frederick County Department of Planning
30 North Market Street
Frederick, MD 21701

Re: Modification Requests
Spectrum Drive – Fast Food Restaurant
AP #16789

Below is a summary of the modifications being requested for the above referenced project:

- A. Parking Modification per 1-19-6.220.A.1
 - a. The code requires 17 parking spaces and 24 have been provided. The tenant has extensive experience with these operations and needs the additional spaces to make their site viable. Even with the added spaces however, we are reducing the impervious from the existing conditions.
- B. Parking Setback Modification Per 1-19-6.200(B)
 - a. The parking setback is one half the building setback. In this case, we are reusing the existing parking spaces which are approximately one foot short of the requirement. Again, we are still reducing the impervious of the existing site.
- C. Loading Space Modification per 1-19-6.210(D)
 - a. The retailer only receives deliveries from a small retail truck. A location has been shown on the plan.
- D. Lighting Modification per 1-19-6.500(D)
 - a. In an effort to reduce impervious areas there are shared drive aisles with adjoining uses. In those areas for safety and visibility there will be some spillage from the lights.
- E. Street Tree Modification per 1-19-6.400
 - a. Route 355 – 3 trees are required to be planted along the frontage. Due to some utility issues, we are proposing that these trees be planted in the right of way. The location will need to be approved by SHA.
 - b. Spectrum Drive – 4 trees required to be planted along the frontage. There is an existing sewer easement along the frontage of the entire site which prevents the trees from being planted. In exchange for this modification, we are reducing the impervious surface and enhancing plantings on site from the existing conditions.

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